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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/770,998	01/25/2001	David B. Montgomery	BILL.01P	7555

20350 7590 05/21/2003

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EXAMINER
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CAPRON, AARON J

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 05/21/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 09/770,998	Applicant(s) MONTGOMERY ET AL.	
	Examiner Aaron J. Capron	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 March 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
    1. ☐ Certified copies of the priority documents have been received.  
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
    3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
    \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>11</u> . | 6) <input type="checkbox"/> Other: _____                                    |

Art Unit: 3714

### **DETAILED ACTION**

This is a response to the Amendment received on March 4, 2003, in which claims 9-11 were amended and claims 13-19 were added. Claims 1-19 are pending.

#### ***Oath/Declaration***

New declaration in Paper No. 10 has been accepted.

#### ***Claim Objections***

Claim 17 is objected to because of the following informalities:

Please correct the phrase "...the pay table calculator calculates the composite pay table is calculated...". Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 9-10 and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Vuong et al. (U.S. Patent No. 5,762,552; hereafter "Vuong"). This holding is maintained from prior action for cited claims, as amended, which is incorporated herein. Response to Applicant assertions is provided below and incorporated herein.

Vuong discloses an electronic gaming apparatus having an electronic game device having a plurality of games accessible to a user (4:20-31 and Figure 6), input means in communication

Art Unit: 3714

with the electronic gaming device to communicate a input signal to a user (8:28-51); and a game controller in communication with the input means, the game controller initiating and simultaneously continuing play of multiple ones of the plurality of games in response to user activation thereof (4:20-31).

Referring to claim 9, Vuong discloses an apparatus that includes the user input means is a touch screen monitor (8:33-36).

Claim 10 corresponds in scope to a method set forth for use of the apparatus listed in claim 1 and are encompassed by use as set forth in the rejection above.

Claims 13-14 correspond in scope to a method set forth for use of the gaming apparatus listed in the claims above and are encompassed by use as set forth in the rejection above. Vuong further discloses the use of menu for a player to select which games the player would like to play (abstract, lines 8-11).

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-8, 11-12 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vuong in view of Moody et al. (U.S. Patent No. 5,976,016; hereafter "Moody").

Referring to claim 2, Vuong discloses the ability to play a gaming machine as a in order to play a game of chance (6:9-28), but does not disclose having multiple pay tables

Art Unit: 3714

corresponding to separate outcomes of the game. However, Moody discloses the ability to play multiple games (Figure 3, lines 310,320,330,340 and 350) with each game outcome having the chance to win a differing amount from the pay table (Figure 3 and Table 1). The two references are analogous since Vuong discloses that it has the ability to act as an electronic game of chance where the results are randomly generated. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the ability to play multiple games, as shown by Moody, into Vuong's gaming machine so that a casino has the opportunity to generate more value from each gaming machine because players have the option of playing multiple games at each machine.

In the alternative, Vuong discloses the ability to play multiple games at once such as craps, roulette, and keno (4:20-31). It is notoriously well known that each of these games has their own betting and payment system, each game inherently possesses a distinct pay table.

Referring to claim 3, as shown above, Vuong in view of Moody discloses that an apparatus that includes a composite pay table defining a new game

Referring to claim 4, Vuong in view of Moody discloses special bonus payouts for achieving multiple high ranking combinations at the same time (Moody 4:45-50).

Referring to claims 5-7, Vuong discloses an apparatus that includes a network interface in communication with the game controller, enabling communication with the game controller from a remote location (Figure 1, 1:6-10 and 2:43-59).

Referring to claim 8, as shown above, Vuong in view of Moody discloses an apparatus that includes a composite pay table that communicates with each of the plurality of electronic gaming devices.

Claims 11-12 correspond in scope to a method set forth for use of the apparatus listed in claims 2-8 and are encompassed by use as set forth in the rejection above.

Claims 15-17 correspond in scope to a method set forth for use of the apparatus listed in the claims above and are encompassed by use as set forth in the rejection above.

Referring to claims 18-19, Vuong in view of Moody disclose a method and apparatus wherein at least of the games in a progressive game (4:45-50).

### ***Response to Arguments***

Applicant's arguments filed March 4, 2003 have been fully considered but they are not persuasive.

Referring to the remarks with respect to claims 1 and 10, Applicant argues that Vuong does not disclose or suggest "an electronic gaming device having a plurality of games accessible to a user" and "a game controller in communication with the user-actuatable input means, the game controller initiating and simultaneously continuing play of multiple ones of the plurality of games in response to user activation thereof." However, Vuong discloses an electronic gaming machine having a plurality of games accessible to a user (abstract lines 8-11) and Vuong discloses that a player can initiate a plurality of games to play and while playing a game, the player may play other games as well (4:20-31). The Examiner views Vuong's gaming machine connecting to the live action board game in order for the player to play and wager on the game to be the initiating feature of Vuong. Further, Applicant's claim language does not limit the claims in a way that would exclude the use of Vuong. Therefore, Applicant's claimed invention fails to preclude Vuong's gaming system.

Art Unit: 3714

Applicant argues that Moody does not disclose a pay table corresponding to the joint possible outcomes of the multiple games is provided. Applicant's claimed invention states "a composite pay table corresponding to joint possible outcomes of the multiple ones of the plurality of games initiated by the user activation." However, Moody provides a composite pay table (column 4, Table 1) corresponding to the joint possible outcomes (Figure 3) of the multiple ones of the plurality of games (Figure 3, lines 310, 320, 330, 340 and 350) in response to user activation thereof (2:18-40). *Further, Vuong's games each inherently possess payable (supra).* *mul*

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Matthiesen et al. (Pub No. 2002/0132657) is a mirror image poker game that is relevant to the invention of claims 1-4, 10-11 and 13-19.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 3714

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron J. Capron whose telephone number is (703) 305-3520.

The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ajc  
May 13, 2003



MARK SAGER  
PRIMARY EXAMINER